

~~8/14~~

MT LEGISLATIVE HISTORY

Chapter 68 19 79

Bill H 192 S _____

Original bill & hist. ✓C

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H. Committee on Nat Res

S. Committee on Nat. Res.

Hearing Date(s) 1-24 ✓C

Hearing Date(s) 2-5 ✓C

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2-23 ✓C

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Date Out _____ C

_____ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____

Report _____

CHAPTER NO. 68

HOUSE BILL NO. 192

INTRODUCED BY MANUEL

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 16, 1979	Introduced and referred to Committee on Natural Resources.
January 25, 1979	Committee recommend bill do pass as amended. Report adopted.
January 26, 1979	Printed and placed on members' desks.
January 27, 1979	Second reading, do pass as amended.
January 29, 1979	Correctly engrossed.
January 30, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

January 31, 1979	Introduced and referred to Committee on Natural Resources.
February 23, 1979	Committee recommend bill be concurred in. Report adopted.
February 27, 1979	Second reading, concurred in.
March 1, 1979	Third reading, concurred in.

IN THE HOUSE

March 2, 1979	Returned from second house, concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 192
2 INTRODUCED BY Manuel
3 BY REQUEST OF THE CODE COMMISSIONER
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAW RELATING TO ENVIRONMENTAL PROTECTION;
7 AMENDING SECTIONS 75-3-103, 75-3-104, 75-3-204, 75-3-301,
8 75-3-405, 75-5-615, 75-6-111, 75-7-204, 75-10-113,
9 75-10-121, 75-10-213, 75-10-214, 75-10-232, 75-15-123,
10 75-15-215, 75-20-408, AND 75-20-501, MCA."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 Section 1. Section 75-3-103, MCA, is amended to read:
14 "75-3-103. Definitions. The definitions used in this
15 chapter are intended to be consistent with those used in 10
16 CFR 1-199 and 49 CFR 173.389-173.399. Unless the context
17 requires otherwise, in this chapter the following
18 definitions apply:
19 (1) "Byproduct material" means a radioactive material
20 (except special nuclear material) yielded in or made
21 radioactive by exposure to the radiation incident to the
22 process of producing or utilizing special nuclear material.
23 (2) "Department" means the department of health and
24 environmental sciences.
25 (3) "Disposal" means burial in soil, release through

1 the sanitary sewerage system, incineration, or permanent
2 long-term storage with no intention of or provision for
3 subsequent removal.
4 (3)(4) "General license" means a license effective
5 pursuant to rules promulgated by the department without the
6 filing of an application to transfer, acquire, own, possess,
7 or use quantities of or devices or equipment utilizing
8 quantities of byproduct, source, special nuclear materials,
9 or other radioactive material occurring naturally or
10 produced artificially. General licenses are effective
11 without the filing of applications with the department or
12 the issuing of licensing documents to the user.
13 (4)(5) "Ionizing radiation" means gamma rays and
14 x-rays, alpha and beta particles, high-speed electrons,
15 neutrons, protons, and other nuclear particles, but not
16 sound or radio waves or visible, infrared, or ultraviolet
17 light.
18 (6) "Large quantity radioactive material" is that
19 quantity of radioactive material defined in 49 CFR
20 173.389(b).
21 (5)(7) "Person" means an individual, corporation,
22 partnership, firm, association, trust, estate, public or
23 private institution, group, agency, political subdivision or
24 agency thereof, and any legal successor, representative,
25 agent, or agency of the foregoing, other than the United

States ~~atomic-energy~~ nuclear regulatory commission, any successor thereto, or federal agencies licensed by the ~~atomic-energy nuclear regulatory~~ commission.

~~(6)(8)~~ "Registration" means the registering with the department by the legal owner, user, or authorized representative of sources of ionizing radiation in the manner prescribed by rule.

~~(7)(9)~~ "Source material" means uranium, thorium, or any other material which the department or the United States ~~atomic-energy nuclear regulatory~~ commission declares by order to be source material or ores containing one or more of the foregoing materials in such concentration as the department or the ~~atomic---energy nuclear regulatory~~ commission declares by order to be source material after the ~~atomic-energy nuclear regulatory~~ commission has determined the material in such concentration to be source material.

~~(8)(10)~~ "Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department or the United States ~~atomic---energy nuclear regulatory~~ commission or any successor thereto declares by order to be special nuclear material or any material artificially enriched by any of the foregoing, but does not include source material.

~~(9)(11)~~ "Specific license" means a license issued after

application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing quantities of byproduct, special nuclear materials, or other radioactive material occurring naturally or produced artificially."

Section 2. Section 75-3-104, MCA, is amended to read:

"75-3-104. Exemptions -- sources, diagnosis, and therapy. (1) This chapter ~~shall~~ does not apply to the following sources or conditions:

(a) electrical equipment that is not intended primarily to produce radiation and that, by nature of design, does not produce radiation at the point of nearest approach at a weekly rate higher than one-tenth the appropriate limit for any critical organ exposed. The production testing or production servicing of such equipment ~~shall~~ is not be exempt.

(b) radiation machines during process of manufacture or in storage or transit;

(c) any radioactive material while being transported in conformity with regulations adopted by the ~~atomic-energy nuclear regulatory~~ commission or any successor thereto or the interstate commerce commission and specifically applicable to the transportation of such radioactive materials.

(2) No exemptions under this section are granted for

those quantities or types of activities which ~~that~~ do not comply with the established rules ~~and regulations~~ promulgated by the ~~atomic--energy~~ nuclear regulatory commission or by any successor thereto.

(3) The provisions of this chapter ~~shall~~ may not be construed to limit the kind or amount of radiation that may be intentionally applied to a person for diagnostic or therapeutic purposes by or under the direction of a licensed practitioner of the healing arts."

Section 3. Section 75-3-204, MCA, is amended to read:

"75-3-204. Records. (1) The department shall require each person who acquires, possesses, or uses a source of ionizing radiation to maintain records relating to its receipt, storage, transfer, or disposal and such other records as the department may require, subject to such exemptions as may be provided by rules.

(2) The department shall require each person who acquires, possesses, or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules of the department. Copies of these records and those required to be kept by subsection (1) of this section shall be submitted to the department on request.

(3) The department shall adopt reasonable regulations,

compatible with those of the United States ~~atomic--energy~~ nuclear regulatory commission or the national committee on radiation protection, pertaining to reports of exposure of personnel to radiation. Such ~~the~~ regulations shall require that reports of excessive exposure be made to the individual exposed and to the department and shall make provision for periodic and terminal reports to individuals for whom personnel monitoring is required."

Section 4. Section 75-3-301, MCA, is amended to read:

"75-3-301. Definitions Definition. ~~The definitions used in this part are intended to be consistent with those used in 10 CFR 1-199 and 49 CFR 175.369-175.399. As used in this part the following definitions apply:~~

(1) ~~"Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear materials~~

(2) ~~"Special nuclear material" means:~~

(a) ~~plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the United States nuclear regulatory commission determines to be special nuclear material; or~~

(b) ~~any material artificially enriched by any of the foregoing~~

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~~(3) "Large quantity radioactive material" is that quantity of radioactive material defined in 49 CFR 173.389(b).~~

~~(4) "Dispose" means burial in soil, release through the sanitary sewerage system, incineration or permanent long-term storage with no intention of or provision for subsequent removal.~~

~~(5) "Person" Notwithstanding the definition in 75-3-103, as used in this part "person" means any individual, group, firm, partnership, corporation, cooperative, association, government subdivision, government agency, local government, or other organization or entity."~~

Section 5. Section 75-3-405, MCA, is amended to read:

"75-3-405. Penalty. Any A person who violates 75-3-404~~(1)~~ is guilty of a misdemeanor punishable by a fine of not less than \$100 and not more than \$1,000 or by confinement in the county jail of not less than 30 days and not more than 90 days or by both such fine and imprisonment."

Section 6. Section 75-5-615, MCA, is amended to read:

"75-5-615. Violators subject to penalties. (1) A person found to be in violation of a condition, limitation, standard, or other requirement established pursuant to 75-5-612 through 75-5-614 ~~shall be~~ is subject to the penalty provisions of 75-5-631, 75-5-632, 75-5-633, and 75-5-635.

(2) For the purpose of this ~~subsection~~ section, the term "person" ~~shall mean~~ means, in addition to the definition contained in 75-5-103, any responsible corporate officer."

Section 7. Section 75-6-111, MCA, is amended to read:

"75-6-111. Appeal from rule or standard -- injunction to require compliance. (1) A person aggrieved by a rule, standard, or order adopted or issued pursuant to this part may appeal to the district court. While the appeal is pending, the rule, standard, or order is in force.

(2) The department may seek an injunction from the appropriate district court to require compliance with this part or a rule or order issued as authorized by this part. The department may also initiate an action to collect a ~~civil~~ criminal penalty as provided in 75-6-113."

Section 8. Section 75-7-204, MCA, is amended to read:

"75-7-204. Work for which permit required. (1) A person who proposes to do any work which ~~that~~ will alter or diminish the course, current, or cross-sectional area of a lake or its lakeshore must first secure a permit for the work from the local governing body.

(2) Without limitation, the following activities, when conducted below mean annual high-water elevation, are examples of work for which a permit is required: construction of channels and ditches; dredging of lake

bottom areas to remove muck, silt, or weeds; ~~tegooning~~
~~subjecting sewage to natural oxidation and drying in a~~
~~lagoon~~; filling; constructing breakwaters of pilings;
~~constructing wharves and docks."~~

Section 9. Section 75-10-113, MCA, is amended to read:

"75-10-113. User's fee assessed. In the event the
 revenues of a project ~~solid waste management system~~ are
 insufficient to pay the costs, a local government may levy a
 pro rata fee against the users of the solid waste management
 district. Such ~~the~~ pro rata fee shall be based on a per ton,
 per pound ~~assessment~~, or volume assessment."

Section 10. Section 75-10-121, MCA, is amended to
 read:

"75-10-121. Solid waste management loans —
 requisites. (1) The department may, in the name of the state
 of Montana, enter into agreements with a local government
 for loans, subject to any existing contractual obligations
 of the local government.

(2) A loan agreement ~~shall~~ ~~must~~ include but not be
 limited to the following:

(a) the amount of the loan, not to exceed the
 estimated reasonable amount of the total implementation
 cost, excluding equipment, construction, or land acquisition
 as determined by the department;

(b) an agreement by the department to pay part of the

amount of the loan to the local government on a timetable as
 may be agreed upon by the parties;

(c) an agreement by the local government to proceed
 with the project ~~solid waste management system~~ in accordance
 with plans approved by the department;

(d) an agreement by the local government to commence
 operation of the project ~~solid waste management system~~ on
 its completion and not to discontinue operations or dispose
 of the project ~~solid waste management system~~ without the
 approval of the department;

(e) an agreement by the local government to operate
 and maintain a solid waste management system in accordance
 with applicable provisions of part 2 of this chapter and
 rules of the department;

(f) an agreement by the local government to pledge any
 available sources of revenue to the repayment of loans
 according to the schedule established by the department. Any
 revenues from the sale of energy or recycled materials
 recovered from the solid waste management system and any
 money received under federal grants for local solid waste
 management may be used to make such payments. State loan
 funds for local solid waste management systems may be used
 only for front-end organizational activities.

(g) an agreement by the local government to establish
 and maintain adequate financial records for the project

1 ~~solid waste management system~~, including an annual audit of
 2 the financial records and transactions covering each fiscal
 3 year by a certified public accountant. A copy of each audit
 4 ~~shall~~ must be submitted to the department of administration
 5 and the department within 30 days after its completion.
 6 Failure of a local government to file a copy of the audit as
 7 required by this section shall be grounds for rescinding the
 8 loan agreement.

9 (3) The department may enter into further agreements
 10 with a local government and acquire further guarantees or
 11 securities as are necessary to implement the provisions of
 12 this part."

13 Section 11. Section 75-10-213, MCA, is amended to
 14 read:

15 "75-10-213. Unlawful disposition of dead animals --
 16 exception. ~~(1)~~ It is unlawful to:

17 ~~(a)~~ (1) place all or any part of a dead animal in any
 18 lake, river, creek, pond, reservoir, road, street, alley,
 19 lot, or field;

20 ~~(b)~~ (2) place all or any part of a dead animal within 1
 21 mile of the residence of any person unless the dead animal
 22 or part of a dead animal is burned or buried at least 2 feet
 23 underground; or

24 ~~(c)~~ (3) being the owner, permit all or any part of a
 25 dead animal to remain in the places specified in subsections

1 ~~(1)(a)~~ and ~~(1)(b)~~ (2) of this section except as provided in
 2 subsection ~~(1)(b)~~ (2) of this section.

3 ~~(2) - Every--24--hours--that--a--dead--animal--or--part--of--a~~
 4 ~~dead--animal--remains--in--the--places--specified--in--subsections~~
 5 ~~(1)(a)--and--(1)(b)--except--as--provided--in--subsection--(1)(b)--~~
 6 ~~is--a--separate--violation."~~

7 Section 12. Section 75-10-214, MCA, is amended to
 8 read:

9 "75-10-214. Exclusions -- exceptions to exclusions.

10 (1) (a) This part may not be construed to prohibit a person
 11 from disposing of his own solid waste, except hazardous
 12 waste, upon land owned, or leased, by that person or covered
 13 by easement or permit as long as it does not create a
 14 nuisance or public health hazard.

15 (b) A person may dispose of his own hazardous wastes
 16 upon land owned, or leased, by that person or covered by
 17 easement or permit after complying with the licensing
 18 requirements of this part and the rules ~~that--shall--be~~
 19 adopted to regulate the disposal or transport of hazardous
 20 wastes.

21 (c) The exclusion contained in subsection (1)(a) of
 22 this section does not apply to a division of land of 5 acres
 23 or less made after July 1, 1977, which falls within the
 24 definition of subdivision in Title 76, chapter 4, part 1, or
 25 the Montana Subdivision and Platting Act in Title 76,

1 chapter 3.

2 (2) The licensing requirements of this part do not
3 apply to the transportation of marketable hazardous wastes
4 to a manufacturing or processing center."

5 Section 13. Section 75-10-232, MCA, is amended to
6 read:

7 "75-10-232. Penalty for violations. (1) (a) Any A
8 person violating this part or regulations prescribed by the
9 department under this part, except 75-10-212(2) or
10 75-10-213, shall be is guilty of a misdemeanor and upon
11 conviction shall be fined not less than \$50 or more than
12 \$500.

13 (b) A person who stores, treats, transports, or
14 disposes of a hazardous waste in violation of this part, a
15 rule adopted as authorized by this part, or an order issued
16 as provided in this part is subject to a civil penalty of
17 not more than \$25,000.

18 ~~(2) A person who violates 75-10-213 or rules adopted~~
19 ~~by the department under the provisions of 75-10-213 is~~
20 ~~guilty of a misdemeanor. On conviction, he shall be fined~~
21 ~~not less than \$10 or more than \$500, imprisoned for not more~~
22 ~~than 90 days or both. Fines collected for violation of~~
23 ~~75-10-213 shall be paid to the county treasurer of the~~
24 ~~county in which the violation occurs.~~

25 ~~(3) (2)~~ Each day upon which a violation occurs is a

1 separate violation."

2 Section 14. Section 75-15-123, MCA, is amended to
3 read:

4 "75-15-123. Acquisition of outdoor advertising rights
5 --compensation. (1) The department may acquire by gift,
6 purchase, agreement, exchange, or eminent domain existing
7 outdoor advertising and property rights pertaining to the
8 advertising which were ~~that was~~ lawfully in existence on
9 June 24, 1971, and which by virtue of 75-15-111(1) are is
10 nonconforming. Eminent domain shall be exercised in
11 accordance with the laws of the state.

12 (2) Just compensation shall be paid for outdoor
13 advertising and property rights pertaining to the
14 advertising acquired through the process of eminent domain.
15 The department may remove outdoor advertising found in
16 violation of 75-15-112 or 75-15-132 without payment of
17 compensation.

18 (3) ~~Despite a contrary provision in this part, a sign~~
19 ~~may not be required to be removed without just compensation~~
20 ~~unless found to be in violation of 75-15-112 or 75-15-132.~~
21 Except as provided in 75-15-131 and 75-15-132, a sign may
22 not be required to be removed unless at the time of removal
23 or discontinuance there are sufficient funds, from whatever
24 source, appropriated and immediately available to pay the
25 just compensation required under this section and unless at

that time the federal funds required to be contributed under section 131(g) of Title 23, United States Code, with respect to the outdoor advertising being removed have been apportioned and are immediately available to this state."

Section 15. Section 75-15-215, MCA, is amended to read:

"75-15-215. Restrictions as to location. No license ~~shall~~ may be granted for the establishment, maintenance, or operation of a junkyard within 1,000 feet of the nearest edge of the right-of-way of any a highway on the interstate or primary systems except ~~the following a license may be granted for a junkyard:~~

(1) ~~those--which--are~~ screened by natural objects, ~~planting planted objects~~, fences, or other appropriate means so as not to be visible from the main-traveled way of any such highway or otherwise removed from sight;

(2) ~~those located within areas--which--are~~ an area zoned for industrial use under authority of law;

(3) ~~those located within unzoned industrial areas~~ area, which--areas--shall--be as determined from actual land uses and defined by ~~regulations--to--be~~ rules promulgated by the ~~highway-commission department of highways;~~

(4) ~~those--which--are~~ that is not visible from the main-traveled way of any such highway."

Section 16. Section 75-20-408, MCA, is amended to

read:

"75-20-408. Penalties for violation of chapter -- civil action by attorney general. (1) (a) Whoever commences to construct or operate a facility without first obtaining a certificate required under 75-20-201 or a waiver thereof under 75-20-304(3) ~~or~~ or having first obtained a certificate, constructs, operates, or maintains a facility other than in compliance with the certificate ~~or~~ or violates any other provision of this chapter or any rule or order adopted thereunder ~~or~~ or knowingly submits false information in any report or application required by this chapter or rule or order adopted thereunder ~~or~~ or causes any of the aforementioned acts to occur ~~shall--be~~ is liable to ~~for~~ for a civil penalty of not more than \$10,000 for each violation.

(b) Each day of a continuing violation ~~shall~~ constitutes a separate offense.

(c) The penalty ~~shall--be~~ is recoverable in a civil suit brought by the attorney general on behalf of the state in the first district court of the first judicial district of Montana.

(2) Whoever knowingly and willfully violates subsection (1) shall be fined not more than \$10,000 for each violation or imprisoned for not more than 1 year, or both. Each day of a continuing violation ~~shall--constitute~~ constitutes a separate offense.

(3) In addition to any penalty provided in subsections (1) or (2), whenever the department determines that a person is violating or is about to violate any of the provisions of this section, it may refer the matter to the attorney general who may bring a civil action on behalf of the state in the first district court of the first judicial district of Montana for injunctive or other appropriate relief against the violation and to enforce this chapter or a certificate issued hereunder. Upon a proper showing, a permanent or preliminary injunction or temporary restraining order shall be granted without bond.

(4) The department shall also enforce this chapter and bring legal actions to accomplish the enforcement through its own legal counsel.

(5) All fines and penalties collected shall be deposited in the earmarked revenue fund for the use of the department in administering this chapter."

Section 17. Section 75-20-501, MCA, is amended to read:

"75-20-501. Annual long-range plan submitted -- contents -- available to public. (1) Each utility and each person contemplating the construction of a facility within this state in the ensuing 10 years shall furnish annually to the department for its review a long-range plan for the construction and operation of facilities.

(2) The plan shall be submitted on or April 1 of each year and shall ~~shall~~ **must** include the following:

(a) the general location, size, and type of all facilities to be owned and operated by the utility or person whose construction is projected to commence during the ensuing 10 years, as well as those facilities to be removed from service during the planning period;

(b) in the case of utility facilities, a description of efforts by the utility or person to coordinate the plan with other utilities or persons so as to provide a coordinated regional plan for meeting the energy needs of the region;

(c) a description of the efforts to involve environmental protection and land use planning agencies in the planning process, as well as other efforts to identify and minimize environmental problems at the earliest possible stage in the planning process;

(d) projections of the demand for the service rendered by the utility or person and explanation of the basis for those projections and a description of the manner and extent to which the proposed facilities will meet the projected demand; and

(e) additional information that the board by rule or the department on its own initiative or upon the advice of interested state agencies might request in order to carry

1 out the purposes of this chapter.
2 (3) The plan shall be made available to the public by
3 the department. The utility or person shall give public
4 notice throughout the state of its plan by filing the plan
5 with the environmental quality council, the department of
6 health and environmental sciences, the department of
7 highways, the department of public service regulation, the
8 department of state lands, ~~the department of fish and game,~~
9 and the department of community affairs. Citizen
10 environmental protection and resource planning groups and
11 other interested persons may obtain a plan by written
12 request and payment therefor to the department."

-End-

NATURAL RESOURCES COMMITTEE

Page 2
46 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 192	Revises and clarifies the law relating to environmental protection.	Jan. 17	Manuel	Jan. 24	DO PASS AS AMENDED	Jan. 24
HB 202	Act requiring the consideration of using public lands for the location of facilities whenever possible and compatible to environmental factors.	Jan. 17	Ernst	Jan. 26	DO PASS AS AMENDED	Jan. 29
HB 216	Act to include woodburning stoves in the definition of recognized nonfossil forms of energy generation, making them eligible for a tax credit	Jan. 17	Vincent	Jan. 24	Referred to Taxation	Jan. 23
HB 222	Act to require the DNRC to establish a program for the removal of silt from reservoirs behind dams.	Jan. 17	Frates	Jan. 24	DO NOT PASS	Jan. 26
HB 253	Requires the Board of NR&C to issue as part of a certificate a time limit during which a facility must be constructed.	Jan. 18	Thoft	Jan. 26	DO PASS AS AMENDED	Jan. 29
HB 280	Act to revise the Major Facility Siting Act; including a provision for stay of Board order, appeal with posting of surety bond; etc.	Jan. 19	Scully	Feb. 14	Tabled	Feb. 19

January 24, 1979

The House Natural Resources Committee convened on Wednesday, January 24, 1979, in room 3 of the Capital Annex, at 1:30 p.m. with Chairman Sheldon presiding and sixteen members present (absent were Reps. Fagg, Nathe and Quilici). Chairman Sheldon opened the meeting to a hearing on the following bills.

HOUSE BILL 192

REP. REX MANUEL, District No. 11, the chief sponsor, said this is a requested bill by the Code Commissioner. He asked Jim Lear of the Legislative Council to explain the contents of the bill.

JIM LEAR, Legislative Council, said he was not the drafter of the bill but that he would explain the bill and answer as well as he could any questions. He went through the bill section by section explaining any and all changes.

REP. HUENNERKENS spoke as an opponent. He said on page 9, line 1, the word "lagooning" is misinterpreted. In this part of the bill it means "the placing of a body of earth across a body of water to segregate that body of water." He said the word here has nothing to do with sewage and so asked that the word be returned to its original meaning.

During questions from the committee, Rep. Scully questioned the removal of language from page 13, subsection 2. Mr. Lear said this was redundant language. He said there are two violation penalties in the same part, one for license of refuse disposal and one for disposition of dead animals. He said it was felt there should be equal treatment for violations throughout the part. He said one change is the deletion of the 90 day possible imprisonment.

HOUSE BILL 168

REP. REX MAUEL filled in for the chief sponsor, Rep. Kvaalen, and said this is also a Code Commissioner request bill. He asked Randy McDonald of the Legislative Council to explain the bill.

RANDY McDONALD, Legislative Council, explained the bill. He said it was mostly grammatical changes. He said the most important thing the bill does is repeal section 90-2-105 and 90-2-106.

HOUSE BILL 222

REP. GENE FRATES, District No. 60, the chief sponsor, said this bill is an attempt to save a natural resource that we have developed at great expense--reservoirs to hold water. He said this bill should benefit all users of that water. He said it has been suggested that the title state small farm and ranch reservoirs are not included. He said the bill was not planned to affect them. He said he would

topography of these dams and so they would have to be sounded, which he said the Corps of Engineers has been doing for years and is not difficult. He said Madison Lake because of the quake has nearly filled itself and is causing some problems.

Rep. Scully said he was having difficulty ascertaining just what the bill was intended to do--planning or implementing. He suggested the following amendments to make it a planning bill: 1) line 3, page 1, change "establish" to "plan"; 2) on line 16, following "removal" strike the following sentence; 3) and strike the lines 19 through 23 following "shall" and insert "select reservoirs needing such removal and solicit federal funding sources for such projects." Rep. Frates said he had no objection to these amendments.

Rep. Burnett asked Rick Bondy, DNR&C, for some information. Mr. Bondy responded that they did prepare a fiscal note on this based on the Cooney Dam. Costs they came up with are conservative, he said. He said they estimated it would cost \$138,000 for the first fiscal year and \$136,000 for the next. He said they would look at three for four of their own reservoirs to establish a program that might work. He said as far as the actual cost of removing the silt it would be about \$300 an acre foot of the additional storage volume.

Rep. Curtiss asked how many dams would the bill affect. Mr. Bondy said that 2000 dams meet the qualifications written into this bill --private dams, settlement dams, state dams. Rep. Scully asked what they planned to do with \$260,000 planning money. Mr. Bondy said they would identify specific dams and determine how much material needs to be removed.

Rep. Keedy asked Rep. Frates if the intent of his bill was to require the department to remove silt. Rep. Frates said his intent was to study the feasibility and establish a program. The department would be asked to study the feasibility and economics involved. Rep. Frates said his bill would try to correct something that is ongoing and only going to get worse.

Chairman Sheldon recessed the hearing on HB 222 until Friday.

EXECUTIVE SESSION

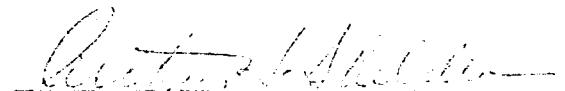
HOUSE BILL 168 Rep. Cooney moved do pass. The motion passed unanimously (except for those absent--Fagg, Nathe, Quilici). Rep. Metcalf moved that it be placed on the consent calendar. This motion passed unanimously with those present (same absent).

HOUSE BILL 162 Rep. Huennkens moved his amendment on page 9, line 1, following "woods;", to insert "laggoring,

meaning the placement of a narrow strip of land across a shallow portion of a lake to create a lagoon;". Rep. Bertelson suggested removing the word "shallow." Rep. Huennekens agreed and moved the above amendment. Motion carried unanimously (same absent). Rep. Cooney moved that the bill as so amended do pass. The motion carried unanimously with those present (same absent). Rep. Metcalf moved the bill be placed on the consent calendar. This motion failed. HB 192 receives a Do Pass As Amended recommendation from the committee.

Meeting adjourned at 2:45 p.m.

Respectfully submitted,


ARTHUR H. SHELLEN, Chairman

Emelia Satre, Secretary

STATE LAW LIBRARY

AUG 10 1979

OF MONTANA

MINUTES

HOUSE NATURAL RESOURCES COMMITTEE

46th LEGISLATURE 1979

Members:

Shelden, Arthur H., Chairman
Harper, Hal, Vice-Chairman
Bertelsen, Verner L.
Burnett, James H.
Cooney, Mike
Curtiss, Aubyn A.
Fagg, Harrison, G.
Huennekens, Herb
Iverson, Dennis
Johnston, George R.
Keedy, Michael H.
Kessler, Gerald R.
McBride, Kathleen
Metcalf, Jerry
Nathe, Dennis G.
Quilici, Joe
Scully, John P.
Spilker, Barbara
Thoft, Bob

Emelia A. Satre, Secretary

COMMITTEE ON Natural Resources

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
120	1/24/79	1/29/79	1/29/79				1/29/79		
130	1/24/79	1/29/79	1/29/79				1/29/79		
168	1/31/79	2/5/79	2/5/79				2/5/79		
192	1/31/79	2/5/79 2/23/79	2/23/79				2/23/79		
202	2/3/79	2/14/79 2/23/79	2/23/79				2/23/79		
230	2/21/79	2/28/79 3/2/79	3/2/79					3/2/79	
253	2/3/79	2/14/79 2/23/79	2/23/79					2/23/79	
313	2/19/79	3/5/79 3/19/79	3/19/79						3/19/79
329	2/23/79	3/16/79	3/16/79					3/16/79	
406	2/22/79	3/2/79	3/2/79				3/2/79		
431	2/20/79	2/28/79	2/28/79					2/28/79	
555	2/23/79	3/12/79 3/14/79	3/14/79					3/14/79	
605	2/20/79	2/28/79	2/28/79				2/28/79		
617	2/28/79	3/12/79 3/14/79	3/14/79						3/14/79
676	2/19/79	2/28/79	2/28/79				2/28/79		
684	2/28/79	3/1/79 3/12/79	3/12/79				3/12/79		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
NATURAL RESOURCES
STATE SENATE

February 5, 1979

The sixth meeting of the Natural Resources Committee was called to order by Senator George F. Roskie, Chairman, at 12:45 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present with the exception of Senators Dover, Jergeson, Lockrem, Manley, Story, and Thiessen. Senator William Mathers, President of the Senate, and Senator Stan Stevens, Senate Majority Leader, sat in as committee members in order to establish a quorum. Senator Manley arrived about 10 minutes after the meeting began.

Mr. Jim Lear, Staff Attorney from the Legislative Council, was also present. See attached visitors' register for the names of visitors present.

CONSIDERATION OF HB 192: "An act to generally revise and clarify the law relating to environmental protection; amending sections 75-3-103, 75-3-104, 75-3-204, 75-3-301, 75-3-405, 75-3-615, 75-6-111, 75-7-204, 75-10-113, 75-10-121, 75-10-213, 75-10-214, 75-10-232, 75-15-123, 75-15-215, 75-20-408, AND 75-20-501, MCA."

"Chairman Roskie called on Jim Lear, representing the Code Commissioner, to explain HB 192 to the Committee. Mr. Lear highlighted the changes proposed in HB 192.

Chairman Roskie called for any other proponents to HB 192 and, hearing none, called for any opponents. Hearing none, Chairman Roskie opened the hearing to questions from the Committee.

Senator Brown asked if it was necessary to be so specific in making reference to the sections of the law. He felt this might necessitate more bills in the future to update references everytime there was any recodification.

With the arrival of Senator Manley at this time, Senator Stevens left the meeting.

Senator Lowe moved that HB 192 BE CONCURRED IN. Senator Brown asked if it would be possible to defer action until he had time to check on the need for the exact references to sections of the law.

Senator Lowe then withdrew his motion.

CONSIDERATION OF HB 168: "An act to generally revise and clarify the law relating to planning, research, and development; amending sections 90-1-108, 90-2-112, 90-5-102, 90-6-116, MCA,

June 2/5/79

ROLL CALL

Natural Resources COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
ROSKIE, George F., Chairman	✓		
DOVER, Harold L., Vice-Chairman			✓
BROWN, Steve	✓		
ETCHART, Mark	✓		
JERGESON, Greg		✓	
LOCKREM, Lloyd C., Jr.			✓
LOWE, William R.	✓		
MANLEY, John E.	✓	✓	
STORY, Pete			✓
THIESSEN, Cornie R.		✓	

Each Day Attach to Minutes.

SENATE

BILL

VISITORS' REGISTER

DATE 2/5/79

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

February 23, 1979

The eighteenth meeting of the Natural Resources Committee was called to order by Senator George F. Roskie, Chairman, at 11:10 A.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present with the exception of Senators Brown and Lockrem.

Mr. Jim Lear, Staff Attorney from the Legislative Council, was also present.

DISPOSITION OF HB 192: Discussion occurred concerning why HB 192 had not been acted on at the time of hearing. Chairman Roskie pointed out that Senator Brown had requested time to find out if it was necessary to be so specific in making reference to the sections of the law. Jim Lear stated that to his knowledge Senator Brown had never done that, and that it was really an unnecessary concern because in future years there will be only one Code Commissioner bill to update everything.

Senator Lowe moved that HB 192 BE CONCURRED IN and Senator Etchart seconded the motion. The motion passed unanimously with those present.

DISPOSITION OF HB 202: Senator Roskie summarized the bill for the Committee. There was some discussion on the amendment put in by the House. Senator Manley said he didn't want any amendments in the bill that would soften the effect of the bill. The Committee finally agreed that the original language was more vague than the amended language and decided to leave HB 202 as it was sent over from the House.

Senator Dover moved that HB 202 BE CONCURRED IN. The motion passed unanimously with those present.

DISPOSITION OF HB 253: Both Senator Dover and Senator Manley gave a little history about the situation that brought about the introduction of this bill.

Senator Etchart asked what the effect would be of the amendment proposed by Mr. Jim Mockler, Montana Coal Council, during the hearing on HB 253 on February 14. Chairman Roskie read the section of the law that Mr. Mockler had requested not be referred to in HB 253. The Committee agreed it was unnecessary language for this bill. Senator Etchart then moved that HB 253 be amended by striking all of line 17 on page 2 and "75-20-104 (7) and" on line 18, page 2. The motion passed unanimously with those present.

ROLL CALL

Natural Resources COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
ROSKIE, George F., Chairman	✓		
DOVER, Harold L., Vice-Chairman	✓		
BROWN, Steve		✓	
ETCHART, Mark	✓		
JERGESON, Greg	✓		
LOCKREM, Lloyd C., Jr.		✓	
LOWE, William R.	✓	✓	
MANLEY, John E.	✓		
STORY, Pete	✓		
THIESSEN, Cornie R.	✓		

Each Day Attach to Minutes.

STANDING COMMITTEE REPORT

February 23, 1979

MR. President

We, your committee on Natural Resources

having had under consideration House Bill No. 192

Respectfully report as follows: That House Bill No. 192

BE CONCURRED IN
DO-PASS

HOUSE BILL NO. 192

INTRODUCED BY MANUEL

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO ENVIRONMENTAL PROTECTION; AMENDING SECTIONS 75-3-103, 75-3-104, 75-3-204, 75-3-301, 75-3-405, 75-5-615, 75-6-111, 75-7-204, 75-10-113, 75-10-121, 75-10-213, 75-10-214, 75-10-232, 75-15-123, 75-15-215, 75-20-408, AND 75-20-501, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-3-103, MCA, is amended to read:

"75-3-103. Definitions. The definitions used in this chapter are intended to be consistent with those used in 10 CFR 1-199 and 49 CFR 173.389-173.399. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Byproduct material" means a radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(2) "Department" means the department of health and environmental sciences.

(3) "Disposal" means burial in soil, release through

the sanitary sewerage system, incineration, or permanent long-term storage with no intention of or provision for subsequent removal.

(3)(4) "General license" means a license effective pursuant to rules promulgated by the department without the filing of an application to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing quantities of byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially. General licenses are effective without the filing of applications with the department or the issuing of licensing documents to the user.

(4)(5) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but not sound or radio waves or visible, infrared, or ultraviolet light.

(6) "Large quantity radioactive material" is that quantity of radioactive material defined in 49 CFR 173.389(b).

(5)(7) "Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United

States atomic--energy nuclear regulatory commission, any successor thereto, or federal agencies licensed by the atomic-energy nuclear regulatory commission.

(6)(8) "Registration" means the registering with the department by the legal owner, user, or authorized representative of sources of ionizing radiation in the manner prescribed by rule.

(7)(9) "Source material" means uranium, thorium, or any other material which the department or the United States atomic-energy nuclear regulatory commission declares by order to be source material or ores containing one or more of the foregoing materials in such concentration as the department or the atomic--energy nuclear regulatory commission declares by order to be source material after the atomic-energy nuclear regulatory commission has determined the material in such concentration to be source material.

(8)(10) "Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department or the United States atomic--energy nuclear regulatory commission or any successor thereto declares by order to be special nuclear material or any material artificially enriched by any of the foregoing, but does not include source material.

(9)(11) "Specific license" means a license issued after

application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing quantities of byproduct, special nuclear materials, or other radioactive material occurring naturally or produced artificially."

Section 2. Section 75-3-104, MCA, is amended to read:

"75-3-104. Exemptions -- sources, diagnosis, and therapy. (1) This chapter ~~shall~~ does not apply to the following sources or conditions:

(a) electrical equipment that is not intended primarily to produce radiation and that, by nature of design, does not produce radiation at the point of nearest approach at a weekly rate higher than one-tenth the appropriate limit for any critical organ exposed. The production testing or production servicing of such equipment ~~shall~~ is not be exempt.

(b) radiation machines during process of manufacture or in storage or transit;

(c) any radioactive material while being transported in conformity with regulations adopted by the atomic-energy nuclear regulatory commission or any successor thereto or the interstate commerce commission and specifically applicable to the transportation of such radioactive materials.

(2) No exemptions under this section are granted for

those quantities or types of activities which ~~that~~ do not comply with the established rules and ~~regulations~~ promulgated by the ~~atomic--energy~~ nuclear regulatory commission or by any successor thereto.

(3) The provisions of this chapter ~~shall~~ ~~may~~ not be construed to limit the kind or amount of radiation that may be intentionally applied to a person for diagnostic or therapeutic purposes by or under the direction of a licensed practitioner of the healing arts."

Section 3. Section 75-3-204, MCA, is amended to read:

"75-3-204. Records. (1) The department shall require each person who acquires, possesses, or uses a source of ionizing radiation to maintain records relating to its receipt, storage, transfer, or disposal and such other records as the department may require, subject to such exemptions as may be provided by rules.

(2) The department shall require each person who acquires, possesses, or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules of the department. Copies of these records and those required to be kept by subsection (1) of this section shall be submitted to the department on request.

(3) The department shall adopt reasonable regulations,

compatible with those of the United States ~~atomic--energy~~ nuclear regulatory commission or the national committee on radiation protection, pertaining to reports of exposure of personnel to radiation. Such ~~the~~ regulations shall require that reports of excessive exposure be made to the individual exposed and to the department and shall make provision for periodic and terminal reports to individuals for whom personnel monitoring is required."

Section 4. Section 75-3-301, MCA, is amended to read:

"75-3-301. ~~Definitions~~ Definition. ~~The definitions used in this part are intended to be consistent with those used in 10 CFR 1-199 and 49 CFR 173.389-173.399. As used in this part, the following definitions apply:~~

(1) ~~"Byproduct--material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;~~

(2) ~~"Special nuclear material" means~~

(a) ~~plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235 and any other material which the United States nuclear regulatory commission determines to be special nuclear material; or~~

(b) ~~any material artificially enriched by any of the foregoing;~~

1 ~~{3}--"Large--quantity--radioactive--material"--is--that~~
 2 ~~quantity---of---radioactive---material--defined--in--49--CFR~~
 3 ~~173.389(b).~~

4 ~~{4}--"Disposal"--means--burial--in--soil--release--through~~
 5 ~~the--sanitary--sewerage--system--incineration--or--permanent~~
 6 ~~long-term-storage-with-no--intention--of--or--provision--for~~
 7 ~~subsequent-removal.~~

8 ~~{5}--"Person"~~ Notwithstanding the definition in
 9 ~~75-3-103, as used in this part "person"~~ means any
 10 individual, group, firm, partnership, corporation,
 11 cooperative, association, government subdivision, government
 12 agency, local government, or other organization or entity."

13 Section 5. Section 75-3-405, MCA, is amended to read:

14 "75-3-405. Penalty. Any A person who violates
 15 75-3-404~~{1}~~ is guilty of a misdemeanor punishable by a fine
 16 of not less than \$100 and not more than \$1,000 or by
 17 confinement in the county jail of not less than 30 days and
 18 not more than 90 days or by both such---fine---and
 19 imprisonment."

20 Section 6. Section 75-5-615, MCA, is amended to read:

21 "75-5-615. Violators subject to penalties. (1) A
 22 person found to be in violation of a condition, limitation,
 23 standard, or other requirement established pursuant to
 24 75-5-612 through 75-5-614 ~~shall-be~~ is subject to the penalty
 25 provisions of 75-5-631, 75-5-632, 75-5-633, and 75-5-635.

1 (2) For the purpose of this ~~[subsection]~~ section, the
 2 term "person" ~~shall--mean~~ means, in addition to the
 3 definition contained in 75-5-103, any responsible corporate
 4 officer."

5 Section 7. Section 75-6-111, MCA, is amended to read:

6 "75-6-111. Appeal from rule or standard -- injunction
 7 to require compliance. (1) A person aggrieved by a rule,
 8 standard, or order adopted or issued pursuant to this part
 9 may appeal to the district court. While the appeal is
 10 pending, the rule, standard, or order is in force.

11 (2) The department may seek an injunction from the
 12 appropriate district court to require compliance with this
 13 part or a rule or order issued as authorized by this part.
 14 The department may also initiate an action to collect a
 15 civil ~~criminal~~ penalty as provided in 75-6-113."

16 Section 8. Section 75-7-204, MCA, is amended to read:

17 "75-7-204. Work for which permit required. (1) A
 18 person who proposes to do any work ~~which that~~ will alter or
 19 diminish the course, current, or cross-sectional area of a
 20 lake or its lakeshore must first secure a permit for the
 21 work from the local governing body.

22 (2) Without limitation, the following activities, when
 23 conducted below mean annual high-water elevation, are
 24 examples of work for which a permit is required:
 25 construction of channels and ditches; dredging of lake

bottom areas to remove muck, silt, or weeds; ~~lagooning~~
LAGOONING, MEANING THE PLACEMENT OF A NARROW STRIP OF LAND
ACROSS A PORTION OF A LAKE TO CREATE A LAGOON; ~~subjecting~~
~~sewage-to-natural-oxidation-and-drying-in-a-lagoon~~ filling;
constructing breakwaters of pilings; ~~constructing~~ wharves
and docks."

Section 9. Section 75-10-113, MCA, is amended to read:

"75-10-113. User's fee assessed. In the event the
revenues of a project solid waste management system are
insufficient to pay the costs, a local government may levy a
pro rata fee against the users of the solid waste management
district. Such ~~the~~ pro rata fee shall be based on a per ton,
per pound ~~assessment~~, or volume assessment."

Section 10. Section 75-10-121, MCA, is amended to
read:

"75-10-121. Solid waste management loans --
requisites. (1) The department may, in the name of the state
of Montana, enter into agreements with a local government
for loans, subject to any existing contractual obligations
of the local government.

(2) A loan agreement ~~shall~~ must include but not be
limited to the following:

(a) the amount of the loan, not to exceed the
estimated reasonable amount of the total implementation
cost, excluding equipment, construction, or land acquisition

as determined by the department;

(b) an agreement by the department to pay part of the
amount of the loan to the local government on a timetable as
may be agreed upon by the parties;

(c) an agreement by the local government to proceed
with the project solid waste management system in accordance
with plans approved by the department;

(d) an agreement by the local government to commence
operation of the project solid waste management system on
its completion and not to discontinue operations or dispose
of the project solid waste management system without the
approval of the department;

(e) an agreement by the local government to operate
and maintain a solid waste management system in accordance
with applicable provisions of part 2 of this chapter and
rules of the department;

(f) an agreement by the local government to pledge any
available sources of revenue to the repayment of loans
according to the schedule established by the department. Any
revenues from the sale of energy or recycled materials
recovered from the solid waste management system and any
money received under federal grants for local solid waste
management may be used to make such payments. State loan
funds for local solid waste management systems may be used
only for front-end organizational activities.

1 (g) an agreement by the local government to establish
 2 and maintain adequate financial records for the project
 3 ~~solid waste management system~~, including an annual audit of
 4 the financial records and transactions covering each fiscal
 5 year by a certified public accountant. A copy of each audit
 6 ~~shall~~ must be submitted to the department of administration
 7 and the department within 30 days after its completion.
 8 Failure of a local government to file a copy of the audit as
 9 required by this section shall be grounds for rescinding the
 10 loan agreement.

11 (3) The department may enter into further agreements
 12 with a local government and acquire further guarantees or
 13 securities as are necessary to implement the provisions of
 14 this part."

15 Section 11. Section 75-10-213, MCA, is amended to
 16 read:

17 "75-10-213. Unlawful disposition of dead animals --
 18 exception. ~~It~~ It is unlawful to:

19 ~~that~~(1) place all or any part of a dead animal in any
 20 lake, river, creek, pond, reservoir, road, street, alley,
 21 lot, or field;

22 ~~that~~(2) place all or any part of a dead animal within 1
 23 mile of the residence of any person unless the dead animal
 24 or part of a dead animal is burned or buried at least 2 feet
 25 underground; or

1 ~~that~~(2) being the owner, permit all or any part of a
 2 dead animal to remain in the places specified in subsections
 3 (1)~~that~~ and ~~that~~(b) (2) of this section except as provided in
 4 subsection ~~that~~(b) (2) of this section.

5 ~~(2)--Every-24-hours-that-a-dead-animal--or--part--of--a~~
 6 ~~dead--animal--remains-in-the-places-specified-in-subsections~~
 7 ~~(1)(a)-and-(1)(b)-except-as-provided-in-subsection--(1)(b)-~~
 8 ~~is-a-separate-violation."~~

9 Section 12. Section 75-10-214, MCA, is amended to
 10 read:

11 "75-10-214. Exclusions -- exceptions to exclusions.

12 (1) (a) This part may not be construed to prohibit a person
 13 from disposing of his own solid waste, except hazardous
 14 waste, upon land owned, or leased, by that person or covered
 15 by easement or permit as long as it does not create a
 16 nuisance or public health hazard.

17 (b) A person may dispose of his own hazardous wastes
 18 upon land owned, or leased, by that person or covered by
 19 easement or permit after complying with the licensing
 20 requirements of this part and the rules ~~that shall be~~
 21 adopted to regulate the disposal or transport of hazardous
 22 wastes.

23 (c) The exclusion contained in subsection (1)(a) of
 24 this section does not apply to a division of land of 5 acres
 25 or less made after July 1, 1977, which falls within the

1 definition of subdivision in Title 76, chapter 4, part 1, or
2 the Montana Subdivision and Platting Act in Title 76,
3 chapter 3.

4 (2) The licensing requirements of this part do not
5 apply to the transportation of marketable hazardous wastes
6 to a manufacturing or processing center."

7 Section 13. Section 75-10-232, MCA, is amended to
8 read:

9 "75-10-232. Penalty for violations. (1) (a) Any A
10 person violating this part or regulations prescribed by the
11 department under this part, except 75-10-212(2) or
12 75-10-213, shall be is guilty of a misdemeanor and upon
13 conviction shall be fined not less than \$50 or more than
14 \$500.

15 (b) A person who stores, treats, transports, or
16 disposes of a hazardous waste in violation of this part, a
17 rule adopted as authorized by this part, or an order issued
18 as provided in this part is subject to a civil penalty of
19 not more than \$25,000.

20 (2) A person who violates 75-10-213 or rules adopted
21 by the department under the provisions of 75-10-213 is
22 guilty of a misdemeanor. On conviction, he shall be fined
23 not less than \$10 or more than \$500, imprisoned for not more
24 than 90 days, or both. Fines collected for violation of
25 75-10-213 shall be paid to the county treasurer of the

1 county in which the violation occurs.

2 (3) (2) Each day upon which a violation occurs is a
3 separate violation."

4 Section 14. Section 75-15-123, MCA, is amended to
5 read:

6 "75-15-123. Acquisition of outdoor advertising rights
7 --compensation. (1) The department may acquire by gift,
8 purchase, agreement, exchange, or eminent domain existing
9 outdoor advertising and property rights pertaining to the
10 advertising which were that was lawfully in existence on
11 June 24, 1971, and which by virtue of 75-15-111(1) are is
12 nonconforming. Eminent domain shall be exercised in
13 accordance with the laws of the state.

14 (2) Just compensation shall be paid for outdoor
15 advertising and property rights pertaining to the
16 advertising acquired through the process of eminent domain.
17 The department may remove outdoor advertising found in
18 violation of 75-15-112 or 75-15-132 without payment of
19 compensation.

20 (3) Despite a contrary provision in this part, a sign
21 may not be required to be removed without just compensation
22 unless found to be in violation of 75-15-112 or 75-15-132.
23 Except as provided in 75-15-131 and 75-15-132, a sign may
24 not be required to be removed unless at the time of removal
25 or discontinuance there are sufficient funds, from whatever

source, appropriated and immediately available to pay the just compensation required under this section and unless at that time the federal funds required to be contributed under section 131(g) of Title 23, United States Code, with respect to the outdoor advertising being removed have been apportioned and are immediately available to this state."

Section 15. Section 75-15-215, MCA, is amended to read:

"75-15-215. Restrictions as to location. No license shall ~~may~~ be granted for the establishment, maintenance, or operation of a junkyard within 1,000 feet of the nearest edge of the right-of-way of any a highway on the interstate or primary systems except ~~the following a license may be granted for a junkyard:~~

(1) ~~those--which--are~~ screened by natural objects, ~~planting planted objects,~~ fences, or other appropriate means so as not to be visible from the main-traveled way of any such highway or otherwise removed from sight;

(2) ~~those located within areas--which--are~~ an area zoned for industrial use under authority of law;

(3) ~~those located within unzoned industrial areas~~ area, ~~which--areas--shall be as~~ determined from actual land uses and defined by ~~regulations-to-be~~ rules promulgated by the highway-commission department of highways;

(4) ~~those--which--are~~ that is not visible from the

main-traveled way of any such highway."

Section 16. Section 75-20-408, MCA, is amended to read:

"75-20-408. Penalties for violation of chapter -- civil action by attorney general. (1) (a) Whoever commences to construct or operate a facility without first obtaining a certificate required under 75-20-201 or a waiver thereof under 75-20-304(3) ~~or~~ or having first obtained a certificate, constructs, operates, or maintains a facility other than in compliance with the certificate ~~or~~ or violates any other provision of this chapter or any rule or order adopted thereunder ~~or~~ or knowingly submits false information in any report or application required by this chapter or rule or order adopted thereunder ~~or~~ or causes any of the aforementioned acts to occur ~~shall be is~~ is liable to ~~for~~ a civil penalty of not more than \$10,000 for each violation.

(b) Each day of a continuing violation ~~shall~~ constitute ~~constitutes~~ a separate offense.

(c) The penalty ~~shall be is~~ is recoverable in a civil suit brought by the attorney general on behalf of the state in the first district court of ~~the first judicial district~~ of Montana.

(2) Whoever knowingly and willfully violates subsection (1) shall be fined not more than \$10,000 for each violation or imprisoned for not more than 1 year, or both.

1 Each day of a continuing violation shall--constitute
2 ~~constitutes~~ a separate offense.

3 (3) In addition to any penalty provided in subsections
4 (1) or (2), whenever the department determines that a person
5 is violating or is about to violate any of the provisions of
6 this section, it may refer the matter to the attorney
7 general who may bring a civil action on behalf of the state
8 in the first district court of ~~the first judicial district~~
9 of Montana for injunctive or other appropriate relief
10 against the violation and to enforce this chapter or a
11 certificate issued hereunder. Upon a proper showing, a
12 permanent or preliminary injunction or temporary restraining
13 order shall be granted without bond.

14 (4) The department shall also enforce this chapter and
15 bring legal actions to accomplish the enforcement through
16 its own legal counsel.

17 (5) All fines and penalties collected shall be
18 deposited in the earmarked revenue fund for the use of the
19 department in administering this chapter."

20 Section 17. Section 75-20-501, MCA, is amended to
21 read:

22 "75-20-501. Annual long-range plan submitted --
23 contents -- available to public. (1) Each utility and each
24 person contemplating the construction of a facility within
25 this state in the ensuing 10 years shall furnish annually to

1 the department for its review a long-range plan for the
2 construction and operation of facilities.

3 (2) The plan shall be submitted on ~~by~~ April 1 of each
4 year and shall ~~must~~ include the following:

5 (a) the general location, size, and type of all
6 facilities to be owned and operated by the utility or person
7 whose construction is projected to commence during the
8 ensuing 10 years, as well as those facilities to be removed
9 from service during the planning period;

10 (b) in the case of utility facilities, a description
11 of efforts by the utility or person to coordinate the plan
12 with other utilities or persons so as to provide a
13 coordinated regional plan for meeting the energy needs of
14 the region;

15 (c) a description of the efforts to involve
16 environmental protection and land use planning agencies in
17 the planning process, as well as other efforts to identify
18 and minimize environmental problems at the earliest possible
19 stage in the planning process;

20 (d) projections of the demand for the service rendered
21 by the utility or person and explanation of the basis for
22 those projections and a description of the manner and extent
23 to which the proposed facilities will meet the projected
24 demand; and

25 (e) additional information that the board by rule or

1 the department on its own initiative or upon the advice of
2 interested state agencies might request in order to carry
3 out the purposes of this chapter.

4 (3) The plan shall be made available to the public by
5 the department. The utility or person shall give public
6 notice throughout the state of its plan by filing the plan
7 with the environmental quality council, the department of
8 health and environmental sciences, the department of
9 highways, the department of public service regulation, the
10 department of state lands, ~~the department of fish and game~~
11 and the department of community affairs. Citizen
12 environmental protection and resource planning groups and
13 other interested persons may obtain a plan by written
14 request and payment therefor to the department."

-End-